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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,387	04/12/2004	Luciano Salice	298-238	2834

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DILWORTH & BARRESE, LLP  
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SUITE 702  
UNIONDALE, NY 11553

EXAMINER
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KYLE, MICHAEL J

ART UNIT	PAPER NUMBER
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3677

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/26/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/822,387	<b>Applicant(s)</b> SALICE, LUCIANO	
	<b>Examiner</b> Michael J. Kyle	<b>Art Unit</b> 3677	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 November 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3,5,7,16,17 and 19-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 24 and 25 is/are allowed.
- 6) ☒ Claim(s) 1-3,5,7,16,17,19-23,26 and 27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION*****Claim Objections***

1. Claims 3 and 7 are objected to for the claim limitations “the damping liquid”. It is unclear which element the damping liquid is a feature of, as it has not been previously provided for in the claims. As best understood, it is part of the braking deceleration device, which is not part of the claimed combination.

2. Claim 5 objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The claimed projections, recesses, and hook, appear to be the same as the elements claimed in the last paragraph of claim 1.

3. Claims 21 and 23 are objected to because of the limitation “along a rotating axis of the hinge”. It is unclear which to which element this is referring. As best understood, it is referring to the positioning of the combination (i.e. “The combination of claim 1 being positioned...along a rotating axis...”). However, as presented, it appears that it is being read in with the description of the hinge. Further, even if it is determined to describe the positioning of the combination, it is unclear how the combination is position along a rotating axis of the hinge. The combination appears to run perpendicular to this axis.

4. Claim 22 is objected to because of the limitation that the external surface is structured and arranged “to be fixed to the attachment plate via the attachment plate”. It is unclear how the surface is attached to an element (attachment plate) by way of that element, without any further description of the structural relationship. For example, from the use of the term “via” it appears

*Also, there are projections 22 and projections 28, which need to be identified as first and second projections, or hook-engaging projections and recess-engaging projections.*  
*KMM*

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there should be some intermediate element between the surface and the attachment plate that fixes the surface to the attachment plate.

5. Claims 26 and 27 refer to hinge that is not part of the claimed combination. The limitations drawn to the hinge are considered to be an intended use of the adaptor body and clip installation plate. The claims require that they are coupled “in the absence of hinge mechanism”, but then later describes an element is relationship to “a hinge”. It is unclear if a hinge is part of the intended use or not, as the claim first describes the absence of hinge, then later provides for a hinge. As best understood, the combination of the instant invention is not directly attached to any hinge elements.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-3, 5, 7, 21-23, 26, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang (U.S. Patent No. 6,684,453) in view of DE 10159140 (“DE ‘140”).

With respect to claims 1 and 5, Wang discloses an adaptor (4) comprising a body (4) having a recess capable of encompassing a housing (811) of a braking deceleration device and allowing a plunger (812) to extend therefrom and retract there into. The adaptor further includes a smooth external surface. Although the adaptor of Wang appears capable of being fixed to an attachment

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plate (because of that fact that it is fixed to something, it would be capable of being fixed to an attachment plate), Wang does not disclose the attachment plate.

8. DE '140 teaches an arrangement comprising an adaptor (2) having a body and a smooth external surface fixed to an attachment plate (7). Use of an attachment plate provides for interchangeability of the adaptor without physically altering or damaging the furniture or frame. It also increases the ease of installation for an end user. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Wang as taught by DE '140, such that the adaptor (4) is fixed to an attachment plate. DE '140 teaches that the attachment plate comprises a clip installation plate (outward facing portion of 7) with a recess for accommodating corresponding projections (29) of the adaptor body. The clip installation plate also includes lateral end stops (portion maintaining the lateral position of the adaptor body), and an end hook (engaged with portions 30 and 31 of adaptor body) for engaged projections (31) in the adaptor body. DE '140 does not show the installation plate to have projections for accommodating recesses of the adaptor body. However, as noted above, DE '140 shows the opposite of the claimed arrangement, where the installation plate has recesses and the adaptor body has projections. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify DE '140, such that the projections and recesses are reversed, in order to attach the adaptor body to the installation plate. Reversing the elements that have the projections and recesses brings about no new or unexpected results, as the adaptor body is still attached to the installation plate by the cooperation between the projections and recesses.
9. With respect to claim 2, Wang discloses that adaptor is attached to a sidewall of the furniture carcass on which the hinges are arranged.

10. With respect to claim 3, it is noted that these limitations are drawn to an object that is not claimed in combination with the adaptor. These limitations are considered as an intended use of the claimed combination. As long as the prior art is capable of being used in the claimed manner then it is considered to meet the limitations of the claim. In this case, the prior art is capable including a damping liquid of at least 15,000 cSt.

11. With respect to claim 7, it is noted that these limitations are drawn to an object that is not claimed in combination with the adaptor. These limitations are considered as an intended use of the claimed combination. As long as the prior art is capable of being used in the claimed manner then it is considered to meet the limitations of the claim. In this case, the prior art is capable including a damping liquid of at least 20,000 cSt.

12. With respect to claim 21, Wang discloses the adaptor (4) to be longitudinally spaced from a hinge (6) and mounted upon a furniture frame and a door, and along a rotating axis of the hinge. It is noted that the present invention claims the combination of an adaptor and attachment plate. A hinge is not part of the combination. As such, recitations directed to the hinge are considered as intended use recitations. In this case, the adaptor of Wang is capable of being longitudinally spaced from a hinge element in arrangements where two hinges are used to the secure a door to a frame.

13. With respect to claim 22, Wang discloses an adaptor comprising a body (4) and having a recess capable of encompassing a housing (811) of a braking deceleration device. The adaptor has a smooth external surface. Wang does not disclose an attachment plate, or for the adaptor to be mounted to a door, rather than a furniture frame.

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14. DE '140 teaches an arrangement comprising an adaptor (2) having a body and a smooth external surface fixed to an attachment plate (7). Use of an attachment plate provides for interchangeability of the adaptor without physically altering or damaging the furniture or frame. It also increases the ease of installation for an end user. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Wang as taught by DE '140, such that the adaptor (4) is fixed to an attachment plate.

15. Further, attaching the adaptor to the door rather than the frame appears to be nothing more than a reversal of parts of an already known device. Such a modification fails to bring about any new or unexpected result, and provides the same relative damping effect. It would have been obvious to one having ordinary skill in the art at the time of the invention to mount the adaptor either on the door or the furniture frame, as no new or unexpected is produced.

16. With respect to claim 23, Wang discloses the adaptor (4) to be longitudinally spaced from a hinge (6) and mounted upon a furniture frame and a door, and along a rotating axis of the hinge. It is noted that the present invention claims the combination of an adaptor and attachment plate. A hinge is not part of the combination. As such, recitations directed to the hinge are considered as intended use recitations. In this case, the adaptor of Wang is capable of being longitudinally spaced from a hinge element in arrangements where two hinges are used to the secure a door to a frame.

17. With respect to claims 26 and 27, it is noted that a hinge is not part of the claimed combination, and as such, all limitations directed to any hinge are considered to be intended use recitations. The combination of Wang and DE '140 shows an adaptor body and clip installation plate capable of being arranged to be coupled in the absence of a hinge (in other words, coupled

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before hinge elements are present) and operating remote from a hinge. In DE'140, the braking deceleration device is not the actual hinge itself, but rather an element adjacent the hinge, connected to hinge structure. It is further noted that the braking deceleration device is not part of the claimed combination.

18. Claims 14, 16, 17, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang in view of DE '140 as applied to claims 10, 4, 5, 8, and 9 above, and further in view of Huber (U.S. Patent No. 5,964,010). Neither Wang nor DE '140 disclose the clip installation plate to comprise a base plate and an intermediate plate that is longitudinally slidable on the base plate.

19. Huber teaches a hinge arrangement that includes a clip installation plate (1, 2). The clip installation plate includes a base plate (1) and an intermediate plate (2). The intermediate plate (2) is slidable on the base plate in a longitudinal direction of the furniture. Huber uses this mounting arrangement so that the position of hinge may be adjusted after installation on the furniture piece. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Wang and DE '140, such that the clip installation plate comprises two pieces slideable relative to each other, in order to adjust the position of the hinge, and braking device after attachment to the furniture carcass.

#### ***Allowable Subject Matter***

20. Claims 24 and 25 are allowed.

#### ***Response to Arguments***

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21. Applicant's arguments filed November 13, 2006 have been fully considered but they are not persuasive. With respect to claims 1 and 22, applicant argues that Wang teaches retraction of a piston rod upon opening of a door and extension of the rod upon closing, which is the opposite of how the instant invention functions. It is noted that in claims 1 and 22, the braking deceleration device and the piston rod are not part of the claimed combination, and references thereto are considered only as an intended use of the combination of the adaptor and attachment plate. The adaptor and attachment plate of the prior are capable of encompassing such a braking deceleration device. Applicant arguments with respect to the claims describing the relationship relative to hinge are not persuasive are addressed in the claim objections and art rejections above.

### *Conclusion*

22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Kyle whose telephone number is 571-272-7057. The examiner can normally be reached on Monday - Friday, 8:30 am - 5:00 pm.

23. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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24. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

mk

A handwritten signature in black ink, reading "Katherine Mitchell". The signature is fluid and cursive, with the first name and last name clearly distinguishable.

**Katherine Mitchell**  
**Primary Examiner**